

AMENDED IN SENATE MARCH 29, 2007

SENATE BILL

No. 918

Introduced by Senator Oropeza

February 23, 2007

~~An act to amend Section 19290 of the Revenue and Taxation Code, relating to tax administration. to add Chapter 3.5 (commencing with Section 18900) to Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 918, as amended, Oropeza. ~~Tax administration: Franchise Tax Board: collection of delinquent fees, wages, and penalties. Taxation: deposits: qualified tuition programs.~~

The Personal Income Tax Law imposes taxes on taxable income which are administered by the Franchise Tax Board. Existing law authorizes taxpayers to contribute amounts in excess of their tax liability for the support of specified funds.

This bill would provide that a taxpayer may designate on his or her tax return that an amount in excess of tax liability, as specified, be deposited by the Franchise Tax Board into a qualified tuition program account, as specified. This bill would require the Franchise Tax Board to revise the form of the return to include the necessary information that will allow a taxpayer to make this designation, as provided.

~~Existing law requires the Franchise Tax Board to administer the levy and collection of taxes pursuant to the Personal Income Tax Law and the Corporation Tax Law, and establishes procedures for the collection of delinquent taxes. Existing law requires the Franchise Tax Board to enter into an agreement with the Department of Industrial relations to~~

transfer that department’s responsibility for the collection of delinquent fees, wages, penalties, costs, and interest, as specified.

~~This bill would make nonsubstantive technical changes to those provisions and would revise obsolete cross-references.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 3.5 (commencing with Section 18900)
2 is added to Part 10.2 of Division 2 of the Revenue and Taxation
3 Code, to read:

4
5 CHAPTER 3.5. DIRECTED DEPOSITS
6

7 18900. (a) A taxpayer may designate on the tax return, that
8 an amount in excess of tax liability, if any, be deposited to the
9 credit of the taxpayer’s qualified tuition program, as defined in
10 Section 529 of the Internal Revenue Code, including, but not limited
11 to, Scholarshare.

12 (b) The designation shall only be allowed if the designation is
13 a full dollar amount that is in excess of one dollar (\$1).

14 (c) The Franchise Tax Board shall revise the form of the return
15 to include a space to allow the designation permitted under
16 subdivision (a), and any other information that may be necessary
17 to carry out this section, including, but not limited to, the following:

18 (1) The amount of the designation.

19 (2) The account number and named beneficiary of the qualified
20 tuition program.

21 (d) In the event the payments and the designation reported on
22 the return do not exceed the tax liability, if any, shown thereon,
23 the tax return shall be treated as though the designation had not
24 been made.

25 (e) If the taxpayer designates a deposit to more than one
26 qualified tuition program and the amount available is insufficient
27 to satisfy the total amount designated, the deposits shall be
28 allocated among the designated accounts on a pro rata basis.

29 ~~SECTION 1. Section 19290 of the Revenue and Taxation Code~~
30 is amended to read:

1 19290. ~~(a) (1) The Department of Industrial Relations shall~~
2 ~~enter into an agreement with the Franchise Tax Board that transfers~~
3 ~~responsibility from the department to the Franchise Tax Board for~~
4 ~~the collection of delinquent fees, wages, penalties, and costs, and~~
5 ~~any interest thereon, effective July 1, 1995. Under the agreement,~~
6 ~~the Franchise Tax Board shall collect unsatisfied judgments that~~
7 ~~are issued pursuant to Sections 98.2, 226.5, 1023, 1289, 2681, and~~
8 ~~6650 of the Labor Code. The agreement shall also provide for the~~
9 ~~collection of delinquent debts that result from a final determination~~
10 ~~by the department after the exhaustion of appeal remedies pursuant~~
11 ~~to Sections 98.3, 210, 1174.5, 1193.6, 1194, 1194.2, 1197.1,~~
12 ~~1197.5, 1771, 1774, 3722, 7314, 7350, 7721, and 7904 of the Labor~~
13 ~~Code. The agreement shall specify the terms under which fees,~~
14 ~~wages, penalties, and costs, and any interest thereon, become~~
15 ~~subject to collection by the Franchise Tax Board.~~

16 ~~(2) The agreement may also provide for reimbursement to the~~
17 ~~Franchise Tax Board on the basis of a percentage of the amount~~
18 ~~of revenue realized as a result of the Franchise Tax Board's~~
19 ~~services, provided that the amount of any reimbursement shall not~~
20 ~~exceed the actual costs of collection, including court costs and~~
21 ~~reasonable attorney's fees. Wherever possible the collection costs~~
22 ~~shall be borne by the judgment debtor. Any fee for the recovery~~
23 ~~of wages shall not be paid by the workers. The department shall~~
24 ~~adopt rules and regulations to provide for a reasonable fee to cover~~
25 ~~actual collection costs. The Franchise Tax Board shall be entitled~~
26 ~~to court costs and reasonable attorney's fees as a judgment creditor~~
27 ~~under subdivision (i) of Section 98.2 of the Labor Code.~~

28 ~~(b) Upon written notice to the obligor from the Franchise Tax~~
29 ~~Board, any amount referred to the Franchise Tax Board under~~
30 ~~subdivision (a) and any interest thereon, including any interest on~~
31 ~~the amount referred under subdivision (a) that accrued prior to the~~
32 ~~date of referral and any fee imposed to cover collection costs as~~
33 ~~provided under subdivision (a), shall be treated as final and due~~
34 ~~and payable to the State of California, and shall be collected from~~
35 ~~the obligor by the Franchise Tax Board in any manner authorized~~
36 ~~under the law for collection of a delinquent personal income tax~~
37 ~~liability, including, but not limited to, issuance of an order and~~
38 ~~levy under Article 4 (commencing with Section 706.070) of~~
39 ~~Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil~~

1 Procedure, in the manner provided for earnings withholding orders
2 for taxes:

3 ~~(e) (1) Part 10 (commencing with Section 17001), this part,~~
4 ~~Part 10.7 (commencing with Section 21001), and Part 11~~
5 ~~(commencing with Section 23001) shall apply to amounts referred~~
6 ~~under this article in the same manner and with the same force and~~
7 ~~effect and to the full extent as if the language of those laws had~~
8 ~~been incorporated in full into this article, except to the extent that~~
9 ~~any provision is either inconsistent with this article, or is not~~
10 ~~relevant to this article.~~

11 ~~(2) Any information, information sources, or enforcement~~
12 ~~remedies and capabilities available to the agency referring the~~
13 ~~amount due described in subdivision (a), shall be available to the~~
14 ~~Franchise Tax Board to be used in conjunction with, or independent~~
15 ~~of, the information, information sources, or remedies and~~
16 ~~capabilities available to the Franchise Tax Board for purposes of~~
17 ~~administering Part 10 (commencing with Section 17001), this part,~~
18 ~~Part 10.7 (commencing with Section 21001), or Part 11~~
19 ~~(commencing with Section 23001).~~

20 ~~(d) The activities required to implement and administer this part~~
21 ~~shall not interfere with the primary mission of the Franchise Tax~~
22 ~~Board to administer Part 10 (commencing with Section 17001)~~
23 ~~and Part 11 (commencing with Section 23001).~~

24 ~~(e) For amounts referred for collection pursuant to subdivision~~
25 ~~(a), interest shall accrue at the greater of the rate applicable to the~~
26 ~~amount due being collected, or the rate provided under Section~~
27 ~~19521. When notice of the amount due includes interest and is~~
28 ~~mailed to the obligor, and the amount is paid within 15 days after~~
29 ~~the date of notice, interest shall not be imposed for the period after~~
30 ~~the date of notice.~~

31 ~~(f) In no event shall a collection under this article be construed~~
32 ~~as a payment of income taxes imposed under Part 10 (commencing~~
33 ~~with Section 17001) or Part 11 (commencing with Section 23001).~~

34 ~~(g) The amendments made to this section by Chapter 600 of the~~
35 ~~Statutes of 1997 are operative for notices issued on or after January~~
36 ~~1, 1998.~~

O